

**R E M A R K S**

Claims 1 - 21 and 28 - 35 are pending in the present application.

Claims 1, 28, 34 and 35 are independent.

Claims 1, 2, 4 - 6, 8, 10 - 15 and 17 - 21 have been examined.

**Election / Restriction****REQUEST FOR RECONSIDERATION**

We request reconsideration of the restriction requirement.

We request review of the following points that are raised by the Office Action. Please provide an answer in the record for each of the following nine questions:

1. In a restriction requirement, is the Examiner obligated to show reasonable examples that recite material differences? (*See MPEP 806.05(e), and page 4 of Applicants' Amendment and Response mailed February 10, 2003*)
2. If the answer to 1 is YES, at what point has the present Examiner shown such reasonable examples?
3. In a restriction requirement, is the Examiner obligated to show that the search and examination of the entire application (including all species) would impose a serious burden on the Examiner? (*See MPEP 803*)
4. If the answer to 3 is YES, at what point has the present Examiner made such a showing?
5. In a restriction requirement, is the Examiner obligated to show that the species claims are mutually exclusive? (*See MPEP 806.04(f), and page 5 of Applicants' Amendment and Response mailed February 10, 2003*)
6. Is the answer to 5 is YES, at what point has the present Examiner made such a showing?
7. In showing that "another materially different apparatus [different than that claims in Group II] can practice the process [of Group I]", since "a completely audio-activated or hands free beverage dispenser" is encompassed by the claims of Group II, how is it a "materially different apparatus"? (*See page 4 of Applicants' Amendment and Response mailed February 10, 2003*)
8. Is an apparatus claim directed to means for practicing a method a linking claim which must be examined with the elected process claim? (*See MPEP 806.05(e)*)

9. Why aren't apparatus claims 28 and 35 means for practicing the methods of claims 1 and 34, respectively?

Among other reasons, we contend that the answer to questions 1, 3 and 5 are YES, but that the Examiner in all three cases has failed to make the requisite showings. Consequently the restriction is improper for failing to be substantiated by any evidence whatsoever in the record.

In addition, we contend that with respect to question 7, the Examiner has not shown that a materially different process can practice the method of Group I.

Finally, we contend that the answer to question 8 is YES, and so apparatus claims 28 and 35 should be examined with method claims 1 and 34.

Thus, the restriction requirement is improper, and all pending claims should be examined in the next Office Action.

Finally, at page 2 of the Office Action, the Examiner apparently, although not clearly, concedes that the restriction requirement is for ninety-six separate species. We request clarification if this interpretation of the Office Action is incorrect.

### **Drawings**

The drawings are objected to as not showing every feature of the claims. In particular, the objection is based on the features recited in the following three claims.

#### Claim 2

*"selecting the information item before said offering step"*

This limitation is currently shown by FIG. 9 in accordance with 37 C.F.R. § 1.83(a). FIG. 9, step 906 is a step labeled "determine information item and price to offer". The present application describes several embodiments of the limitations described in step 906. One such embodiment is:

"The information item to be offered may be selected based on the product selected by the customer."

Page 18, lines 1 - 2 (emphasis added)

#### Claim 6

New FIG. 10 has been added. Text describing FIG. 10 has been added to the present application. No new matter has been added.

Claim 8

New FIG. 11 has been added. Text describing FIG. 11 has been added to the present application. No new matter has been added.

**Section 103(a) Rejections**

Claims 1, 2, 4 - 6, 8, 10 - 15 and 17 - 21 are rejected as being unpatentable over Satchell (U.S. Patent No. 5,822,216). We traverse the Examiner's Section 103(a) rejection. There has been no *prima facie* showing that the claims are obvious.

All of the Section 103(a) rejections rely on an unsupported assertion regarding the scope and content of the prior art, and an unsupported motivation to combine / modify the teachings of the prior art. Specifically, on page 4, paragraphs 1, 2 and 6 of the Office Action, reference is made to a motivation which exists to combine / modify teachings of the prior art, and what is well known to one of ordinary skill in the art. There is no substantial evidence support for either of the two assertions. Moreover, whether or not it is generally known to send information "from a website to a particular e-mail address", this would not imply that it would have been obvious to modify any process in order to send information "from a website to a particular e-mail address".

Consequently, no substantial evidence exists to support the rejection for obviousness, and no *prima facie* case of unpatentability has been set forth.

The Examiner has noted a deficiency of the Satchell reference on page 4 of the Office Action (i.e. Satchell "is silent as to the specific of sending said accessed information to an e-mail address"). In addition, Satchell likewise does not disclose or suggest the step of

*"receiving a destination address"*

This limitation is present in all the examined claims.

**Conclusion**

For the foregoing reasons it is submitted that all of the claims are now in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Dean Alderucci at telephone number 203-461-7337 or via electronic mail at Alderucci@WalkerDigital.com.

Respectfully submitted,



May 10, 2004

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